

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IN RE: APPLE INC. SMARTPHONE
ANTITRUST LITIGATION

This Document Relates To: All Actions

Case No. 2:24-md-03113

MDL No. 3113

Judge Julien Xavier Neals

**[PROPOSED] CASE MANAGEMENT
ORDER NUMBER 1**

THESE MATTERS, having been transferred to this Court by the Judicial Panel on Multidistrict Litigation (the “Panel”) pursuant to its Transfer Order of June 7, 2024 in *In re: Apple Inc. Smartphone Antitrust Litigation* (the “MDL”), merit special attention as complex litigation. The Court therefore enters the following Case Management Order (“Order”):

1. SCOPE OF THE ORDER

This Order shall govern the practice and procedure of those actions transferred to this Court by the Panel pursuant to the Transfer Order, any “tag-along actions” transferred to this Court by the Panel pursuant to the Panel’s Rules of Procedure, and all related actions that have been or will be originally filed in, transferred to, or removed to this Court and assigned hereto (collectively, the “MDL Actions”). This Order and all subsequent Case Management Orders shall be binding on all parties and their counsel in all MDL Actions, and shall govern each case in this MDL unless the Order explicitly states that it does not apply to specific cases or that it applies only to specific cases.

2. CONSOLIDATION

The civil actions transferred to this Court or related to the actions already pending before this Court are consolidated for pretrial purposes only. Any “tag-along actions” transferred to this

Court, or directly filed in the District of New Jersey, will automatically be consolidated in the MDL without the necessity of future motions or orders. This consolidation does not constitute a determination that the actions should be consolidated for trial, nor does it have the effect of making any entity a party to any action in which he, she, or it has not been named, served, or added in accordance with the Federal Rules of Civil Procedure.

3. MASTER DOCKET FILE

The Clerk of the Court will maintain a master docket case file under the style “*In re: Apple Inc. Smartphone Antitrust Litigation*” and the docket number 2:24-md-03113.¹ When a pleading is intended to apply to all actions, this shall be indicated by the words: “This Document Related to: ALL ACTIONS.” When a pleading is intended to apply to fewer than all cases, the Court’s docket number for each individual case to which the document number relates shall appear immediately after the words: “This Document Relates To:” The following is a sample of the pleading style:

IN RE: APPLE INC. SMARTPHONE
ANTITRUST LITIGATION

This Document Relates To:

Case No. 2:24-md-03113

MDL 3113

4. FILING

Each attorney of record is obligated to become a District Court of New Jersey ECF User and be assigned a user ID and password for access to the system. If he or she has not already done so, counsel shall register as an ECF User and be issued an ECF User ID and password. Forms and

¹ The Clerk of the Court shall continue to maintain a separate civil action number and case file for each case filed in, removed to, or transferred to the Court.

instructions can be found on the Court's website <http://www.njd.uscourts.gov/>. All documents shall be e-filed in the master file, 2:24-md-03113. Documents that pertain to one or only some of the pending actions shall be e-filed in the individual case(s) to which the document pertains.

5. APPEARANCES

Counsel who appeared in a transferor court prior to transfer need not enter an additional appearance before this Court. Moreover, attorneys in "tag-along actions" admitted to practice and in good standing in any United States District Court are admitted *pro hac vice* in this litigation, and the requirements of Local Civil Rule 101.1(c) are waived. Such counsel are subject to the New Jersey Rules of Professional Conduct, the Guidelines for Litigation Conduct, Local Civil Rule 103.1(c), and the disciplinary jurisdiction of this Court. Association of local counsel is not required.

6. LEAD COUNSEL FOR PLAINTIFFS

Plaintiffs shall meet and confer regarding proposed leadership and present either individual or slate applications to the Court before the initial case management conference.

The Court will exercise the power of appointment and approval of members of the leadership fairly, transparently, and on the basis of merit. All appointments are of a personal nature. The Court desires to appoint individuals, not firms, who have the time and resources available to effectuate the just and efficient resolution of this litigation.

The submission of the proposed leadership structure shall include the following:

- Proposed lead counsel (and his or her qualifications) and any proposed committee structure.
- Describe each proposed applicant's MDL, class action, and complex litigation experience generally and in antitrust cases specifically. For each attorney, list each

Court-appointed leadership position in any MDL or class action case in which they have previously been or are currently involved.

- Indicate how you plan to fund the case including whether you anticipate any third-party funding and if so, from whom and describe the amount of control the funder(s) will have over the litigation strategy and settlement decisions.
- Describe what procedures will be used to monitor billing, control costs, and avoid duplication of efforts of counsel and the process for assignment and monitoring of work.
- Describe how you propose to maintain communication and input from lawyers not part of the leadership structure.

7. INITIAL CONFERENCE

The Court will conduct an Initial Case Management Conference on **July __, 2024**, at 10:00 a.m. in Courtroom MLK 5D, MLK Jr. Federal Bldg. & U.S. Courthouse; 50 Walnut Street, Newark, NJ 07102. Individual plaintiffs are not required to attend. Attendance at the conference will not waive any objections to the jurisdiction, venue, or service. Persons or entities who are not named parties in this litigation but may later be joined as parties or who are parties in related litigation pending in other courts are invited to attend in person or through counsel. Counsel are expected to be prepared at the conference to suggest procedures that will facilitate the just, speedy, and inexpensive resolution of this litigation.

8. JOINT AGENDA AND STATUS REPORT

The parties shall submit a joint agenda and status report to the Court seven (7) calendar days before the Initial Case Management Conference. Counsel shall meet and confer—in person, by teleconference or by video conference—and seek consensus to the extent possible with respect

to joint agenda items including, but not limited to: Leadership and organization of counsel for the Plaintiffs, a suggested schedule and process to address Protective Orders; privilege, preservation, and ESI protocols; the parameters for discovery; and a suggested schedule for discovery and class certification.

The status report shall include the following:

- a. A list of all related actions pending in the state or federal Court and their current status, including any discovery taken to date, to the extent known; and
- b. Brief written statements—one by Plaintiffs and one by Defendants—not more than ten (10) pages each, indicating Plaintiffs’ and Defendants’ respective preliminary understanding of the facts involved in the litigation and the critical factual and legal issues. These statements will NOT be filed with the Clerk, will not be binding, will not waive claims or defenses, and may not be offered in evidence against a party in later proceedings.

9. CASE MANAGEMENT CONFERENCES

The Court will hold regular case management conferences in this multidistrict litigation every six (6) to eight (8) weeks or at other intervals determined by the Court.

10. CONSOLIDATED AMENDED COMPLAINT

Within forty-five (45) calendar days of entry of an order appointing leadership, interim lead counsel shall file a Consolidated Amended Complaint.

11. RESPONSE EXTENSION AND PLEADING SCHEDULE

Defendant need not respond to any prior complaints. The Court will consider dispositive motions and other motions concerning the Amended Complaint consistent with its existing Judicial Rules and Preferences.

12. SERVICE LIST

Within forty-five (45) calendar days of entry of an order appointing leadership, interim lead counsel shall provide the Court with a list of attorneys and their office addresses, phone and fax numbers, and e-mail addresses.

A service list will be maintained by the Clerk of the Court during the course of this litigation by adding parties/attorneys to the master docket. Any attorney who wishes to have his/her name added or deleted from the master docket may do so upon request to the Clerk of this Court and notice to all other persons on such master docket.

13. IDENTIFICATION OF RELATED CASES

The Court requests the assistance of counsel in calling to the attention of the Clerk of this Court the filing or transfer of any case that might properly be coordinated as part of this MDL, upon any party's information and belief that the matter should be coordinated.

14. PRESERVATION OF EVIDENCE

All parties and counsel are reminded of their duty to preserve evidence that may be relevant to this action, including ESI. The parties shall meet and confer in an effort to reach an agreement on a preservation plan for all cases and shall take reasonable steps to preserve all evidence that may be relevant to this litigation. Counsel, as officers of the Court, are obligated to exercise all reasonable efforts to identify and notify parties and non-parties, including employees of corporate or institutional parties, of their preservation obligations.

15. APPLICATION OF LOCAL RULES

Unless otherwise set forth in this Order, the parties shall comply with the Local Civil Rules of the United States District Court for the District of New Jersey, as well as the individual rules and preferences of the District Judge and Magistrate Judge assigned to this matter.

IT IS SO ORDERED.

UNITED STATES DISTRICT JUDGE

Dated: June __, 2024

cc: Honorable Leda D. Wettre, U.S.M.J.